

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36211]

Clackamas Valley Railway, LLC—Lease and Operation Exemption with Interchange
Commitment—Union Pacific Railroad Company

Clackamas Valley Railway, LLC (CVR), a noncarrier,¹ has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to lease from Union Pacific Railroad Company (UP) and to operate² approximately 1.6 miles of railroad line in Clackamas, Or. (the Line). The Line extends east from a connection with UP's Portland-Eugene, Or., main line immediately south of UP milepost 760.0, running parallel to SE Jennifer Street (to the south), continuing southeast across SE Jennifer Street and turning south to termination at Carpenter Drive. According to CVR, there are no mileposts associated with the Line.

This transaction is related to a concurrently filed verified notice of exemption in Progressive Rail Inc.—Continuance in Control Exemption—Clackamas Valley Railway, LLC, Docket No. FD 36212, in which Progressive Rail Incorporated seeks Board approval to continue in control of CVR upon CVR's becoming a Class III rail carrier.

CVR states that the Line is currently operated by UP as excepted track under 49 U.S.C. § 10906. However, because it will operate the Line as its entire line of

¹ CVR states that the transaction described here is its initial railroad acquisition.

² A draft copy of the operating agreement was submitted under seal with the notice of exemption.

railroad, CVR asserts that it will become a rail carrier upon consummation of the proposed transaction. See Effingham R.R.—Pet. for Declaratory Order—Constr. at Effingham, Ill., 2 S.T.B. 606, 609-10 (1997), aff'd sub nom. United Transp. Union-III. Legislative Bd. v. STB, 183 F.3d 606 (7th Cir. 1999).

CVR certifies that its projected annual revenues from this transaction will not result in the creation of a Class I or Class II rail carrier and will not exceed \$5 million. As required under 49 C.F.R. § 1150.33(h)(1), CVR has disclosed in its verified notice that the lease agreement contains an interchange commitment that prohibits CVR from entering into any other agreement for the movement of CVR traffic without the prior consent of UP. CVR has provided additional information regarding the interchange commitment as required by 49 C.F.R. § 1150.33(h).

Although CVR states in its verified notice that the transaction is proposed to be consummated on or about August 31, 2018, the earliest this transaction may be consummated is September 15, 2018 (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than September 7, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36211, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on CVR's

representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive,
Suite 800, Chicago, IL 60606-3208.

According to CVR, this action is categorically excluded from environmental
review under 49 C.F.R. § 1105.6(c) and from historic reporting under 49 C.F.R.
§ 1105.8(b).

Board decisions and notices are available on our website at www.stb.gov.

Decided: August 28, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.